

Judge David G. Estudillo

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOAO RICARDO DEBORBA,
Defendant.

NO. CR22-5139-DGE

UNITED STATES' SENTENCING
MEMORANDUM

The United States respectfully recommends the Court impose a sentence of 60 months' imprisonment, to be followed by a three-year term of supervised release, and a mandatory special assessment of \$700. The defendant appears before this court for sentencing in the above-captioned case following the Court's February 5, 2024, guilty verdict on all seven counts of the Superseding Indictment.

I. BACKGROUND

A. Offense Conduct

1. DeBorba Engaged in Fraud to Remain in the United States for Over 20 Years

25 Joao Ricardo DeBorba, a citizen of Brazil, came to the United States in 1999 using
26 a nonimmigrant B2 visitor's visa that allowed him to remain in the country temporarily
27 for up to six months. PSR ¶ 9. Despite the restriction of his visa, which required that he

1 depart the United States by May 2000, DeBorba never left the county. He overstayed his
 2 visa and remained in the United States until his eventual arrest in May 2022. Dkt 77 at
 3 ¶¶ 4-6 (stipulated facts).

4 DeBorba was able to do this without detection in part by obtaining a Social
 5 Security card in 2001 after presenting a false I-94 entry document. Dkt. 2 at ¶ 9 (criminal
 6 complaint). DeBorba's Social Security card indicated that it did not permit his
 7 employment. But he falsified I-9 employment eligibility forms by claiming U.S.
 8 citizenship and presenting Social Security cards that had been forged or altered to remove
 9 the notation, "NOT VALID FOR EMPLOYMENT." In addition, the card that he used in
 10 connection with one successful employment application did not bear the seal of the
 11 Social Security Administration, but rather bore the seal of the Department of Health and
 12 Human Services, indicating it was a forgery. *Id.* at ¶ 11.

13 Because he was an alien unlawfully in the United States, DeBorba was at all
 14 relevant times prohibited from purchasing or possessing a firearm. Dkt. 77 at ¶ 6.

15 **2. DeBorba Repeatedly Committed Domestic Violence Subjecting Him to
 16 Numerous Restraining Orders**

17 On November 9, 2019, Vancouver Police responded to a domestic violence
 18 incident involving DeBorba and his then-wife A.D. DeBorba's 12-year-old son called
 19 911 and said his father attacked his mother and punched and slapped her multiple times
 20 in the arms, legs, and face. A.D. told police that she was separated from DeBorba, who
 21 was home with the children when she came home from work. DeBorba was angry and
 22 asked to look in her phone, and when she refused, he took the phone from her, hit it on
 23 the counter, and threatened to hit A.D. as well if she didn't give him the password. When
 24 she did not, DeBorba slapped her in the face, and after she defended herself, DeBorba
 25 continued to punch, kick, and slap her. A.D. moved to the kitchen to prevent her children
 26 from seeing DeBorba hitting her, but DeBorba followed her into the kitchen, then into the
 27 children's room where he slapped her in front of the children. A.D. asked DeBorba to

1 follow her outside to sit in the car so they could talk away from the children, but while in
 2 the car with her DeBorba started the engine and began to drive away. A.D. was able to
 3 jump out of the car after DeBorba backed up and before he put the car in drive, and she
 4 went inside the residence and told one of the children to call police. *See Exhibit 1,*
 5 attached hereto.

6 On November 12, 2019, a Washington District Court judge issued a Domestic
 7 Violence No-Contact Order restraining DeBorba from assaulting, threatening, harassing,
 8 or causing injury to A.D. Dkt. 77 at ¶ 14. The order also prevented DeBorba from owning
 9 or possessing any firearms or from possessing a concealed pistol license and required him
 10 to immediately surrender all firearms. *Id.* A replacement order with the same terms was
 11 issued after a hearing two days later. *Id.* at ¶ 15. DeBorba was present for both hearings.

12 On November 16, 2019, A.D. went to a Vancouver Police station to report that
 13 DeBorba had been calling her and sending her messages in violation of the restraining
 14 order. Exhibit 2, attached. A.D.s phone had call logs showing 20 phone calls from
 15 DeBorba in a half-hour period and had multiple text and voice messages from him as
 16 well. A.D. stated she was afraid to go home because DeBorba said he was coming to her
 17 home to see the kids. A.D. knew that DeBorba had firearms, but stated she thought that
 18 DeBorba had turned them in as required by the restraining order. *Id.*

19 Officers responded to DeBorba's residence for his violation of the restraining
 20 order. DeBorba was present and was told he was under arrest and to come out, but he did
 21 not, resulting in the response of additional units and a tactical vehicle. DeBorba
 22 eventually surrendered and admitted he had firearms in the house. Police collected 20
 23 firearms from inside the residence. *Id;* dkt. 77 at ¶ 16; PSR ¶¶ 14, 51.

24 On December 7, 2019, A.D. again reported a restraining order violation by
 25 DeBorba. A.D. came home from picking up food for her children and found DeBorba in
 26 her apartment. She told him to leave multiple times, but he began yelling and punching
 27 himself, then grabbed A.D. around her waist in what A.D. believed was an attempt to

1 stop her from taking her phone out to call police. A.D. kicked away from DeBorba and
 2 ran outside screaming for help. DeBorba fled the scene. One of the children and a
 3 neighbor corroborated A.D.'s statements to the police. Exhibit 3, attached.

4 On June 2, 2020, Vancouver Police responded to another report of a restraining
 5 order violation. A.D. reported that DeBorba had been texting her and asking to come see
 6 the children, and she allowed him to do so while she was at work but that he needed to
 7 leave before she got home. When she returned from work, DeBorba was there and
 8 approached her outside the apartment and pleaded with her that they needed to get back
 9 together. A.D. told DeBorba she would not and asked him to leave, and he became angry
 10 and started to yell, then grabbed both of A.D.'s arms. A.D. told DeBorba to let her go, but
 11 he pushed her, causing her to fall backward onto a bicycle and injuring her arm. A.D.
 12 immediately got up, grabbed the two youngest children, and ran into the apartment,
 13 locking the door behind her. DeBorba knocked on the door multiple times, rang the
 14 doorbell, and yelled loudly. The responding officer noted a half-inch abrasion on A.D.'s
 15 left forearm and observed doorbell camera footage showing DeBorba knocking on the
 16 door. DeBorba was later arrested at his apartment. PSR ¶ 51.¹ Exhibit 4, attached.

17 In October 2020, DeBorba was convicted of Assault in the Fourth Degree –
 18 Domestic Violence and two counts of Domestic Violence Court Order Violations in
 19 Clark County Superior Court. PSR ¶ 51. As part of sentencing, the court issued a new
 20 domestic violence restraining order, which again required DeBorba to surrender any
 21 firearms in his possession. Dkt. 77 at ¶ 19.

22 On August 21, 2022, DeBorba was again arrested for a restraining order violation
 23 when, during an exchange of custody of his children, he had an argument with A.D.
 24 during which he put his foot behind the wheel of her car to keep her from leaving.
 25 A.D. began taking a video of DeBorba in the hope that he would leave her alone, but
 26 DeBorba continued yelling at her and eventually spit at her. PSR ¶ 53.

27 ¹ The PSR incorrectly lists the date of this incident as June 20, 2020.

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1 Based on this incident, on January 31, 2022, DeBorba was again convicted of
 2 fourth degree assault and of violating the October 2020 domestic violence restraining. *Id.*
 3 DeBorba was again notified in person that he could not possess any firearms. Dkt. 77 at
 4 ¶ 21.

5 **3. DeBorba Repeatedly and Unlawfully Obtains and Possesses
 6 Firearms and Ammunition**

7 Despite being prohibited from doing so, both because he had unlawfully remained
 8 in the United States and later because his commission of domestic violence resulted in
 9 him being prohibited by court-issued restraining orders from possessing guns, DeBorba
 10 repeatedly made fraudulent statements to obtain and carry firearms.

11 DeBorba falsified information on a February 2019 application for a concealed
 12 pistol license, claiming to be a United States citizen. DeBorba knew that his answers to
 13 the citizenship and immigration questions on the form were false. Dkt. 77 at ¶ 8; PSR
 14 ¶ 10.

15 In March 2019, DeBorba bought a Savage Arms rifle in Portland, Oregon, by
 16 falsely claiming on the required Bureau of Alcohol, Tobacco, Firearms and Explosives
 17 Firearm Transaction Record (Form 4473) that he was a citizen of the United States, that
 18 he was not unlawfully in the United States, and that he had not been admitted under a
 19 nonimmigrant visa. Dkt. 2 at ¶ 14. Federal Firearms Licensed dealers are required to by
 20 federal law to document the sales of firearms using Form 4473, and false statements on
 21 the forms are material to the sale of firearms because federal law prohibits the transfer of
 22 firearms to person prohibited from possessing them under federal law. PSR ¶ 11.

23 On April 4, 2019, DeBorba purchased a .45 caliber Sig Sauer model 1911 pistol
 24 from a Cabela's store in Lacey, Washington, again providing the same false information
 25 on the Form 4473. Dkt. 77 at ¶ 10; PSR ¶ 11. Nine days later, on April 13, 2019, he again
 26 fraudulently bought a firearm (this time, a KelTec model Sub-2000 rifle) from a store in
 27 Lebanon, Oregon. Dkt. 2 at ¶ 16.

1 The next day, April 14, 2019, DeBorba was driving a white SUV and was
 2 involved in a single- vehicle collision on State Route 500 in Clark County. PSR ¶ 12. The
 3 Washington State Patrol investigated and ultimately arrested DeBorba for driving under
 4 the influence. PSR ¶ 50, dkt. 2 at ¶ 17. Based on this arrest, DeBorba was convicted of
 5 negligent driving and placed on supervision, and later sentenced to five days' jail for
 6 failing to comply with treatment and attend a victims panel. PSR ¶ 50.

7 During the encounter with the Washington State Patrol, DeBorba admitted he was
 8 driving and told the officer he had a concealed pistol carry license. Dkt. 77 at ¶ 12. The
 9 officer located the fraudulently obtained concealed pistol license on DeBorba and found a
 10 Glock 26 type pistol in a black tactical backpack on the rear floorboard of the SUV.
 11 Dkt. 77 at ¶¶ 12-13; PSR ¶¶ 12, 50. DeBorba initially denied having the pistol, but later
 12 admitted the gun was in the backpack. Dkt. 2 at ¶ 17; dkt. 77 at ¶ 12.

13 The arrest did nothing to slow DeBorba's fraudulent and illegal acquisition of
 14 firearms—indeed, his presentation to the officer of the fraudulently obtained concealed
 15 carry license appears to have emboldened him. Less than a week later, on April 20, 2019,
 16 he purchased a Century Arms model RAS47 rifle from Keith's Sporting Goods in
 17 Gresham, Oregon, again falsifying information on the Form 4473. Dkt. 2 at ¶ 18. On
 18 May 8, 2019, he purchased a Rock Island Armory model M200 .38 special revolver from
 19 Brass Tacks Munitions in Vancouver, Washington, and made the same false statements
 20 on the Form 4473. PSR ¶ 11; dkt 77 at ¶ 11.

21 Ultimately, DeBorba illegally obtained many more firearms, as evidenced by the
 22 20 firearms confiscated by police following his November 16, 2019, arrest for violation
 23 the domestic violence restraining order. Officers found at DeBorba's residence a variety
 24 of firearms which he had failed to surrender as required by the court order, including
 25 several pistols, ammunition, an AR-15 type rifle, and additional parts used to assemble

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1 AR-15 type rifles. PSR ¶¶ 14, 51; dkt. 77 at ¶ 16 and Exhibit 7; dkt 2 at ¶ 21. Some of the
 2 firearms taken into police custody are pictured below:



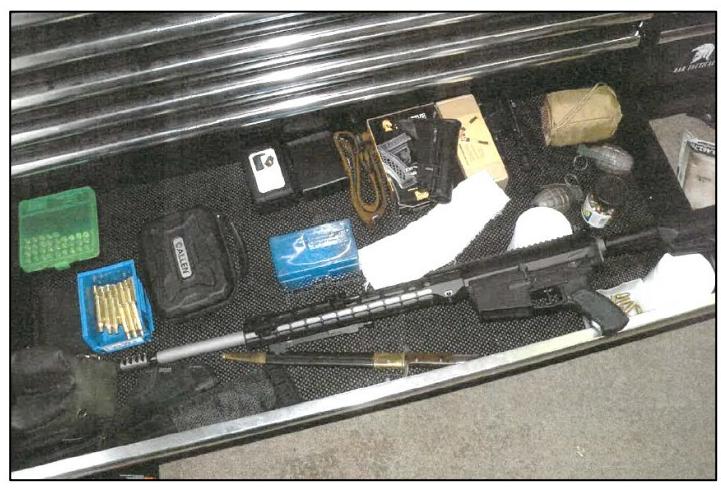
18 In April 2021, police responded to a report of an assault by DeBorba at his
 19 residence (where he was living apart from A.D. and the children). The roommates
 20 reported that DeBorba still had firearms, despite DeBorba having been ordered three
 21 times not to possess any firearms and to relinquish any firearms in his possession. Dkt 2
 22 at ¶ 28; Exhibit 5, attached. The roommates stated that DeBorba had a bolt-action rifle
 23 that he often carried in a backpack because it could be disassembled. *Id.*; PSR ¶ 16. The
 24 roommates reported that they were afraid of being assaulted by DeBorba and that he had
 25 pushed the male roommate in the chest then locked the door to the apartment and told the
 26 roommates, “You’re not going anywhere.” The female roommate reported being terrified
 27 that DeBorba would attack her and that she began crying in fear. Exhibit 5.

1 In August 2021, federal law enforcement received additional information that
 2 DeBorba continued to possess firearms and viewed a social media post on DeBorba's
 3 Instagram social media account of DeBorba firing a black AR-15 type rifle with a
 4 synthetic stock and optical sight. PSR ¶ 16; dkt. 2 at ¶ 23; dkt 77 at ¶ 22. The video was
 5 found to have been recorded on May 20, 2020, in Washougal, Washington, and thus
 6 showed DeBorba's continued violation of his domestic violence restraining order. Dkt. 2
 7 at ¶ 23. Review of DeBorba's YouTube account showed additional videos of DeBorba
 8 firing a rifle at a shooting range. Dkt 77 at ¶ 22.

9 On May 6, 2022, federal law enforcement searched DeBorba's residence,
 10 suspecting his continued possession of firearms. PSR ¶ 17; dkt 77 at ¶ 23. Inside the
 11 apartment, agents found evidence of DeBorba's possession and manufacture of firearms,
 12 including three AR-15 type rifles, a Ruger 9mm handgun, and two Polymer80 Glock-type
 13 handguns with no serial numbers or manufacturer's marks (commonly referred to as
 14 "ghost guns" because of the lack of markings that would enable law enforcement to trace
 15 the firearms to their origin or possessor), and numerous rounds of ammunition. PSR
 16 ¶¶ 17-18; dkt 77 at ¶¶ 23-25. Several of the firearms appeared to be personally
 17 manufactured firearms assembled from constituent parts. The apartment also contained a
 18 workbench with a vice, a large amount of ammunition, firearms parts, firearms tools,
 19 assembly instructions, body armor, and a completed firearm silencer, as well as
 20 suppressor parts, rifle magazines including what appeared to be a 50-round drum
 21 magazine, and other firearms accessories. PSR ¶¶ 19; dkt. 77 at ¶¶ 23-25 and Exhibit 12.
 22 The firearm silencer met the definition of silencer under federal law and bore no serial
 23 number allowing it to be registered. *Id.*; dkt 77 at ¶ 27.

24 DeBorba admitted to possessing the firearms in the residence and to assembling
 25 them himself from parts that he purchased through the internet. DeBorba also admitted
 26 that he had lied on the forms he used to buy firearms and that he knew that it was illegal
 27 for non-citizens such as himself to possess firearms. PSR ¶¶ 20.

A portion of the items seized at DeBorba's residence are pictured below:



1 | **B. Procedural History**

2 | DeBorba was arrested on May 6, 2022, and a criminal complaint was filed the
 3 | same day. Dkt. 2. An indictment in six counts was issued on May 19, 2022, charging
 4 | unlawful possession of firearms and ammunition, false statements during the purchase of
 5 | a firearm, and false claim to United States citizenship. Dkt. 9. A superseding indictment
 6 | was issued on September 6, 2023, charging an additional count of unlawful possession of
 7 | a firearm silencer. On February 1, 2024, DeBorba waived his right to a jury trial, and a
 8 | bench trial based on stipulated facts was held on February 5, 2024. This Court found
 9 | DeBorba guilty on all counts. Dkt. 78.

10 | **II. BACKGROUND ON SENTENCING**

11 | Under 18 U.S.C. § 3553(a), the Court “shall impose a sentence sufficient, but not
 12 | greater than necessary, to comply with the purposes set forth in” 18 U.S.C. § 3553(a)(2).
 13 | There are four sentencing purposes set forth in Section 3553(a)(2): (1) just punishment or
 14 | retribution (“to reflect the seriousness of the offense, to promote respect for the law, and
 15 | to provide just punishment for the offense”); (2) deterrence (“to afford adequate
 16 | deterrence to criminal conduct”); (3) incapacitation (“to protect the public from further
 17 | crimes of the defendant”); and (4) rehabilitation (“to provide the defendant with needed
 18 | educational or vocational training, medical care, or other correctional treatment in the
 19 | most effective manner”). *See Rita v. United States*, 551 U.S. 338, 348 (2007) (using these
 20 | four terms); *see also Gall v. United States*, 552 U.S. 38, 50 n.6 (2007).

21 | In determining a sentence that complies with these four sentencing purposes, a
 22 | sentencing court must consider the “nature and circumstances of the offense and the
 23 | history and characteristics of the defendant,” the “kinds of sentences available,” the
 24 | Sentencing Guidelines range and Sentencing Commission’s relevant policy statements,
 25 | the “need to provide restitution to any victims of the offense,” and the “need to avoid
 26 | unwarranted sentence disparities among defendants with similar records who have been
 27 | found guilty of similar conduct.” 18 U.S.C. § 3553(a)(1), (3)-(7). When considering these

1 factors, the Sentencing Guidelines range “should be the starting point and the initial
 2 benchmark.” *Gall*, 552 U.S. at 49. Any deviation must be reasonable, and a “major
 3 departure” from the Guidelines range “should be supported by a more significant
 4 justification than a minor one.” *Id.* at 50.

5 III. SENTENCING GUIDELINES CALCULATIONS

6 A. Offense Level

7 1. The Base Offense Level

8 Because DeBorba was a prohibited firearms possessor and the offense conduct
 9 involved a firearm described in the National Firearms Act (26 U.S.C. § 5845), namely, a
 10 silencer, the base offense level is 20, pursuant to USSG § 2K2.1(a)(4)(B)(i)(II) and (ii)(I).
 11 PSR ¶ 27.

12 2. Specific Offense Characteristic

13 Because the offense conduct involved 25 firearms or more, the offense level is
 14 increased by six levels, pursuant to USSG § (b)(1)(B). PSR ¶ 28.

15 3. Adjustment for Acceptance of Responsibility

16 The Probation Office calculated a two-level decrease in offense level for
 17 acceptance of responsibility pursuant to USSG § 3E.1.1(a), because DeBorba stipulated
 18 to facts surrounding his offenses and participated in a bench trial. The government does
 19 not object to the two-level decrease under subsection (a). *See* USSG § 3E1.1 cmt. n. 2.

20 As the Probation Office correctly noted in its Addendum to the Presentence
 21 Report, the additional adjustment under USSG § 3E.1.1(b) is available only upon
 22 government motion “stating that the defendant has assisted authorities in the investigation
 23 or prosecution of his own misconduct by timely notifying authorities of his intention to
 24 enter a plea of guilty, thereby permitting the government to avoid preparing for trial and
 25 permitting the government and the court to allocate their resources efficiently.” The
 26 government makes no such motion here.

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1 Here, DeBorba did not timely notify the government of his intention to enter a
 2 guilty plea. Indeed, he did not enter guilty plea at all, but proceeded to a bench trial,
 3 albeit on stipulated facts. This has neither the legal nor the practical effect of a guilty
 4 plea. The bench trial neither provided the government the certainty of a negotiated
 5 resolution with all the typical attendant benefits to the government (such as avoiding
 6 contested issues at sentencing and on appeal, and avoiding an appeal of the guilty verdict,
 7 the outcome of pretrial motions, or issues related to the sentence), nor did it preserve
 8 government resources (the government made trial preparations, such as filing jury
 9 instructions, witness and exhibit lists, and a trial memo, and subpoenaing witnesses) but it
 10 required substantial effort to draft factual stipulations in preparation for presenting the
 11 government's case to the judge. These are the type of "substantive preparations taken to
 12 present the government's case against the defendant to a . . . judge, in the case of a bench
 13 trial" that Section 3E1.1(b) benefits defendants for allowing the government to avoid.

14 The Ninth Circuit has made it clear that a stipulated facts bench trial is not
 15 equivalent to a guilty plea when it comes to Section 3E1.1(b). In *United States v.*
 16 *Villasenor-Cesar*, 114 F.3d 970 (9th Cir. 1997), the Court directly addressed whether a
 17 defendant may receive the third point for acceptance of responsibility after proceeding to
 18 a stipulated facts bench trial and held that he cannot. *See also United States v. Espinoza-*
 19 *Cano*, 456 F.3d 1126, 1136 (9th Cir. 2006) ("Espinoza-Cano argues that . . . the
 20 government's decision not to file a motion in this case was arbitrary because he satisfied
 21 the prerequisite of permitting the government to avoid trial preparation when he opted to
 22 proceed by way of a stipulated bench trial. This contention, however, runs afoul of our
 23 holding in *Villasenor-Cesar* that proceeding by way of a stipulated bench trial is
 24 inconsistent with notifying authorities of an intent to plead guilty.")

25 **B. Criminal History Category**

26 DeBorba has four criminal history points, resulting in a criminal history category
 27 of III. PSR ¶¶ 50-56.

1 | **C. Guidelines Range**

2 The total offense level is 24. PSR ¶ 28. This results in a guidelines imprisonment
 3 range of 63 to 78 months. PSR ¶ 100; USSG § Ch.5, Pt.A (Sentencing Table).

4 **IV. FACTORS RELATED TO SENTENCING RECOMMENDATION**

5 The United States respectfully requests that the Court sentence the defendant to 60
 6 months of confinement, followed by a three-year term of supervised release. The United
 7 States believes this sentence is appropriate in light of “the nature and circumstances of
 8 the offense,” and the need for the sentence “to reflect the seriousness of the offense, to
 9 promote respect for the law, and to provide just punishment for the offense,” and “to
 10 protect the public from further crimes of the defendant.” 18 U.S.C. §§ 3553(a)(1),
 11 (a)(2)(A), and (a)(2)(C). A review of pertinent Section 3553(a) sentencing factors, below,
 12 supports the recommended sentence.

13 **A. Nature and Circumstances, and Seriousness of the Offense**

14 DeBorba’s criminal conduct was serious. He repeatedly committed domestic
 15 violence against his former wife and in front of his children. This resulted in a series of
 16 domestic violence restraining orders being issued protecting his wife from DeBorba.
 17 Notwithstanding the clear provisions of these orders, DeBorba continued to possess, and
 18 continued to acquire, large numbers of firearms, ammunition, and firearms accessories.
 19 When police searched his residence in May 2022, his bedroom was essentially an armory
 20 doubling as a firearms workshop. Particularly serious is DeBorba’s possession of an
 21 illegal firearm silencer, body armor, and high-capacity magazines, along with the cache
 22 of firearms.

23 The prohibitions set out in § 922(g)(8) “seek to protect society in general, and the
 24 intimate partners of persons with a background of domestic violence in particular, by
 25 reducing the risk of violence that may result from the possession of guns by persons with
 26 a proven propensity for violence.” *United States v. Rogers*, 371 F.3d 1225, 1229 (10th
 27 Cir. 2004). ““The dangerousness of guns and their adaptability [for] use in violent crime

1 is why Congress has prohibited their possession' by individuals subject to a domestic
 2 protection order" *Id.* (quoting *United States v. Dillard*, 214 F.3d 88, 94 (2d Cir.
 3 2000)). "A defendant whose background includes domestic violence which advances to
 4 either a criminal conviction or the imposition of a protection order has a demonstrated
 5 propensity for the use of physical violence against others." *Id.*

6 Because of his propensity to violence, DeBorba's ex-wife feared him and resorted
 7 to the courts to ensure he would not have access to guns. DeBorba ignored these
 8 protections and nevertheless acquired a small arsenal, not only knowing it was illegal for
 9 him to do so but having been specifically ordered not to. This is extremely troubling.
 10 "Firearms contribute significantly to domestic violence in the U.S. — to threaten, to
 11 coerce, to control, and to kill. Around 4.5 million women in the United States have been
 12 threatened with a gun, and nearly 1 million women have been shot or shot at by an
 13 intimate partner. Over half of all intimate partner homicides are committed with guns.
 14 Indeed, a woman is five times more likely to be murdered when her abuser has access to
 15 a gun." The Educational Fund to Stop Gun Violence, available at:
 16 <https://efsgv.org/learn/type-of-gun-violence/domestic-violence-and-firearms> (last
 17 accessed May 10, 2024).

18 Indeed, following his first reported domestic violence incident, DeBorba's conduct
 19 only became more troubling. He increased his threatening conduct toward his wife. He
 20 threatened his roommates, who feared him because they knew he was accustomed to
 21 carrying a rifle with him. Despite having firearms seized from him, he replenished his
 22 cache of weapons and ammo, and began to obtain ghost guns as well as a firearm
 23 silencer, a highly restricted weapon under federal law.

24 The offenses DeBorba committed are serious and require a sentence that reflect
 25 the nature of the firearms crimes he committed.

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1 **B. History and Characteristics of the Defendant**

2 DeBorba's criminal history reflects his domestic violence, with two prior
 3 convictions for assault on his ex-wife, as well as a disorderly conduct conviction resulting
 4 from the assault involving his roommates. He also has a reckless driving conviction. Prior
 5 to that, he engaged in the creation of fraudulent documents to enable him to overstay his
 6 visa and reside and work in the United States without detection for over 20 years.

7 **C. Need to Promote Respect for the Law, Provide Just Punishment for the
 8 Offense, and Afford Adequate Deterrence**

9 DeBorba's conduct epitomizes a lack of respect for the law; not just the nation's
 10 firearms laws, but specific orders from state judges requiring him not to possess firearms.
 11 DeBorba knowingly disregarded these legal obligations time and again. Deterrence
 12 requires that this conduct be treated seriously. The government's recommended sentence
 13 would reflect the seriousness of the offense, appropriately promote respect for the law,
 14 protect the community, and deter defendant and others who would seek to emulate his
 15 conduct.

16 **D. Need to Avoid Unwarranted Sentence Disparity Among Similarly Situated
 17 Defendants**

18 Anchoring the sentence in the guidelines calculations has the added benefit of
 19 avoiding unwarranted sentencing disparities among similarly situated defendants. *Gall v.*
20 United States, 552 U.S. 38, 54 (2007) ("[A]voidance of unwarranted disparities was
 21 clearly considered by the Sentencing Commission when setting the Guidelines ranges.").

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V. CONCLUSION

For all of the reasons set forth above, the government respectfully recommends the Court impose a custodial sentence of 60 months, to be followed by a three-year term of supervised release, and a mandatory special assessment of \$700.

DATED this 10th day of May, 2024.

Respectfully submitted,

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